

# **Exhibit A**

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF DELAWARE

- - -

HONEYWELL INTERNATIONAL INC. : CIVIL ACTION

Plaintiff

vs.

AUDIOVOX COMMUNICATIONS CORP;  
AUDIOVOX ELECTRONICS CORPORATION  
NIKON CORPORATION; NIKON INC;  
NOKIA CORPORATION; NOKIA INC;  
SANYO ELECTRIC CO., LTD.; SANYO NORTH  
AMERICA CORPORATION; SANYO EPSON  
IMAGING DEVICES CORPORATION,  
SUZHOU EPSON CO., LTD.,  
SANYO EPSON IMAGING DEVICES  
(HONG KONG) LTD., and  
SANYO EPSON IMAGING  
DEVICES (PHILLIPINES) INC.,  
SANYO:

Defendants

NO. 04-1337-JJF

- - -

Wilmington, Delaware  
April 2, 2008  
12:48 o'clock, p.m.  
Status Conference

- - -

BEFORE: HONORABLE JOSEPH J. FARNAN, JR., U.S.D.C.J.

- - -

APPEARANCES:

MORRIS, NICHOLS, ARSHT & TUNNELL  
BY: THOMAS GRIMM, ESQ

and

ASHBY & GEDDES  
BY: LAUREN MAGUIRE, ESQ

1  
2 Counsel for Plaintiff

3 RICHARDS, LAYTON & FINGER  
4 BY: CHAD SHANDLER, ESQ

5 Counsel for Eastman Kodak

6 FISH & RICHARDSON:  
7 BY: THOMAS HALKOWSKI, ESQ

8 Counsel for Apple and Nokia

9 POTTER, ANDERSON & CORROON  
10 BY: PHILIP ROVNER, ESQ

11 Counsel for Fuji

12 YOUNG, CONAWAY, STARGATT & TAYLOR  
13 BY: KAREN PASCALE, ESQ

14 Counsel for Optrex America

15 BOUCHARD MARGULES & FRIEDLANDER, P.A.  
16 BY: DAVID J. MARGULES, ESQ

17 Counsel for Citizens' Watch

18 POTTER, ANDERSON & CORROON  
19 BY: RICHARD L. HORWITZ, ESQ

20 Counsel for Samsung SDI

21 YOUNG, CONAWAY, STARGATT & TAYLOR  
22 BY: MONTE SQUIRE, ESQ

23 and

24 BY: JOHN W. SHAW, ESQ

25 Counsel for Olympus

CONNOLLY, BOVE, LODGE & HUTZ  
BY: FRANK DIGIOVANNI, ESQ

Counsel for Sony Ericsson Mobil Systems

DUANE, MORRIS  
BY: DONALD MCPHAIL, ESQ

and

1 AIMEE CZACHOROWSKI, ESQ

2 Counsel for Innolux

3 YOUNG, CONAWAY, STARGATT & TAYLOR  
4 BY: CHAD STOVER, ESQ

5 Counsel for Pentax

6  
7  
8 Leonard A. Dibbs

9 Official Court Reporter

10  
11 P R O C E E D I N G S

12  
13 (Court commenced at 12:48 o'clock p.m.)

14 THE COURT: Be seated, please.

15 Do you want to announce your appearances starting  
16 with Honeywell?

17 MR. GRIMM: Good afternoon, your Honor, Tom Grimm  
18 of Morris, Nichols. I represent Honeywell in the 1338 case.  
19 With me is Lauren Maguire from the Ashby Geddes firm. She is  
20 in the 04-1337 case.

21 THE COURT: You're in the 1338 case? I got it.

22 MR. GRIMM: Correct. They have been  
23 consolidated.

24 THE COURT: All of these are the ones in front of  
25 Judge Jordan?

1 MR. GRIMM: Correct.

2 THE COURT: That you think?

3 MR. HORWITZ: Richard Horwitz of Potter,  
4 Anderson. I know you have another hearing.

5 I'm here today on behalf of Samsung SDI, which is  
6 one of the manufacturers' defendants in the active case.  
7 There are various stayed defendants as well.

8 THE COURT: All right. Good afternoon.

9 MR. ROVNER: Good afternoon, your Honor, Phil  
10 Rovner for the Fuji defendants. I represent two of the  
11 manufacturers' defendants that are in the case.

12 THE COURT: Thank you.

13 MS. PASCALE: Good afternoon, your Honor, Karen  
14 Pascale of the Young, Conaway firm. I represent Optrex  
15 America, a manufacturers' defendant.

16 THE COURT: Thank you.

17 MR. HALKOWSKI: Good afternoon, your Honor,  
18 Thomas Halkowski with Fish & Richardson on behalf of Nokia as  
19 well as Apple.

20 I have an issue that hopefully we can get to that  
21 will help streamline the case. At least ten or 11 customer  
22 defendants -- suppliers who have been fully licensed up.

23 We would like an opportunity to raise that issue  
24 in whatever way the Court deems appropriate.

25 THE COURT: Thank you.

1 MR. MCPHAIL: Good afternoon, your Honor, Donald  
2 McPhail I represent one of the manufacture defendants in  
3 this case, Innolux

4 THE COURT: Thank you.

5 MR. SQUIRE: Good afternoon, your Honor, Monte  
6 Squire, along with John Shaw, we represent Olympus as well  
7 Sony.

8 THE COURT: Thank you.

9 MR. MARGULES: Good afternoon, your Honor, Dave  
10 Margules. I represent Citizens' Watch and Citizens' Display,  
11 which is the the only defendant in 874 case.

12 THE COURT: Thank you.

13 MR. DIGIOVANNI: Good afternoon, your Honor,  
14 Frank DiGiovanni from Connolly, Bove, representing Sony  
15 Ericsson Mobil Communications (USA) Inc.

16 THE COURT: Thank you.

17 MR. STOVER: Good afternoon, your Honor, Chad  
18 Stover from from the Young, Conaway firm. I'm here on behalf  
19 of the Pentax defendants.

20 THE COURT: All right. Thank you.

21 MR. SHANDLER: Good afternoon, your Honor, Chad  
22 Shandler from Richards, Layton for Eastman Kodak.

23 THE COURT: Thank you.

24 All right.

25 This is started by the case being assigned to me

1 and then an e-mail and there being some questions about what  
2 schedule the case was on, if it's on a schedule or not on a  
3 schedule and how is the case going to proceed.

4 Mr. Grimm?

5 MR. GRIMM: Your Honor, for the record, for what  
6 it's worth, it was my understanding that today's hearing was  
7 for Delaware Counsel only. There is counsel here --  
8 non-Delaware Counsel representing Optrex in the courtroom.

9 I don't know if there are any other non-Delaware  
10 lawyers representing the parties in this lawsuit or not.

11 THE COURT: I don't know.

12 Is that like a call out?

13 MR. GRIMM: Yes.

14 THE COURT: The only -- what I was trying to do  
15 as we're trying to do with -- what I'm trying to do in cases  
16 that I have inherited from that vacant judgeship is that over  
17 the next 90 days, I'm trying to get everybody in.

18 What happened in this case was with the e-mail  
19 and the confusion it created for me, I thought that I could  
20 quickly without worrying about schedules, get somebody from  
21 every local firm, Delaware firm, in to at least talk about  
22 them.

23 It's okay if someone from another firm.

24 Although, I don't want anybody thinking that I'm favored to  
25 that firm because I allowed someone to come. I was trying to

1 get it on quickly.

2 MR. GRIMM: I understand that, your Honor. You  
3 can imagine the ripple of panic it set off with Honeywell and  
4 my co-counsel.

5 THE COURT: I'm saying what I'm saying. It was  
6 only intended to get some expeditious treatment to the  
7 confusion that is in the schedule.

8 I think it's largely driven by the way the case  
9 was treated inside the Courthouse. I'm trying to get it up  
10 and running again. I wanted to get some folks over so I  
11 could talk. I guess I could have done it on telephone.

12 As you can see with the numbers and everything at  
13 my age, I'm not good on the telephone even with one party. I  
14 have to keep asking people to speak up and all.

15 Why don't you start. No offense if you're here  
16 or not here and you're not Delaware counsel.

17 MR. GRIMM: Thank you, your Honor.

18 This case was filed in October of 2004.  
19 Originally, Honeywell sued the U.S. end customers of LCD  
20 screens that it claims infringe its patent because those were  
21 the entities that obviously we could easily get jurisdiction  
22 over.

23 Initially, the lawsuit involved 15 defendants.  
24 The defendants moved to stay the action against them and  
25 requested that the Court direct Honeywell to, in the first



1 instance, seek to bring in the original manufacturers of the  
2 LCD screens, all or most of whom are in foreign countries  
3 like Korea and Japan. That process took quite sometime as  
4 you can imagine.

5 At the end of the day there were, I believe, 24  
6 manufacturers brought into the case. Because of the large  
7 number of defendants, the way the schedule was initially set  
8 up by Judge Jordan, the first trial would be on the issue of  
9 validity only and infringement would follow.

10 However, the parties were directed to discover  
11 all issues. That's what's been done over the last three and  
12 a half years. Of course, it was transferred to Judge Thygne  
13 at some point in time, who has resolved a number of discovery  
14 issues.

15 There are some discovery issues and other issues  
16 that are currently pending.

17 At this point, given that 20 of the 24 defendants  
18 have now settled and taken a license under the patent in  
19 suit, not only would Honeywell would like to see the case put  
20 on a schedule, an aggressive schedule as soon as possible  
21 given your Honor's very busy schedule, but also to visit  
22 reconfiguring on how the case is to be tried.

23 At this point, with only four defendants  
24 remaining and some of whom are likely to settle, it doesn't  
25 seem to make a lot of judicial sense or financial sense for

1 the parties to proceed the way it was initially mapped out  
2 with validity only.

3 It would only take the filing of infringement  
4 reports by experts and deposition of experts to have the  
5 infringement case complete and ready to go.

6 In light of your Honor's more recent desire in  
7 scheduling, and that is -- at least it seems to us, what you  
8 are doing more and more, is holding Markman hearings before  
9 expert reports and expert discovery so that the experts know  
10 what you're claim construction is.

11 We can very quickly go to the claim construction  
12 process. The briefs are due next month. We can have a  
13 hearing whenever your Honor can do that and schedule  
14 infringement expert reports to follow on after that with the  
15 usual trial that could cover infringement as well as validity  
16 as well as damages.

17 So, on behalf of Honeywell, I would request that  
18 your Honor set an in-person scheduling conference, if  
19 possible, in the near future to consider putting the case on  
20 a schedule and reconfiguring the way the trial will proceed.

21 THE COURT: All right. Thank you.

22 MR. ROVNER: Your Honor, as the author of that  
23 e-mail, I'm going to be the first speaker.

24 First, to correct a few things that Mr. Grimm had  
25 said.

1           The issues for the first trial -- it wasn't just  
2   invalidity. It was unenforceability as well. We did have a  
3   large number of defendants. This was the list of the  
4   defendants. It was more than 15, maybe 15 defendant groups.  
5   At one point, there were well over 30 individual defendants.

6           After much negotiation, argument, hearings, Judge  
7   Jordan set the schedule the way he did, limiting the first  
8   trial to the manufacturer defendants trying unenforceability  
9   and invalidity.

10          Speaking for the manufacturers' defendants, we  
11   certainly wish to keep that schedule. And that's the trial.

12          There is no reason after years of proceeding that  
13   way that we would undue everything. We believe we shouldn't  
14   undo it. We should keep the trial the way it was initially  
15   proposed.

16          With respect to the schedule. The e-mail was  
17   prompted simply by the fact that we know that your Honor  
18   generally deals with Markman and Summary Judgement  
19   differently than Judge Jordan did before he left and by Judge  
20   Thygne, who maintained the schedule.

21          We didn't want to be put in a position of filing  
22   claim construction briefs and Summary Judgement briefs at the  
23   same time only to get the claim construction briefs done, get  
24   a hearing and then having to do Summary Judgement.

25          We want to operate on your Honor's schedule that

1 makes a lot of sense to get the claim construction out of the  
2 way.

3 What we're hoping to do, frankly, I was told that  
4 the schedule that we had which was April 25 for Markman  
5 briefs, which your Honor has maintained, responsive briefs by  
6 May 26th. I was told that's Memorial Day.

7 Maybe you brought us to Court to reprimand me for  
8 picking Memorial day for responsive claim construction  
9 briefs.

10 We would hope that would be May 27th. We would  
11 hope that your Honor would set a hearing for claim  
12 construction after that. We would go to Summary Judgement on  
13 the issues that we've already -- that we planned on  
14 briefing.

15 THE COURT: All right. Thank you.

16 THE COURT: Anybody else?

17 MR. HALKOWSKI: Yes, your Honor.

18 I mentioned before about an issue that I believe  
19 is very important with regard to the stayed custody  
20 defendants. I don't know if I can have two minutes of your  
21 Honor's time to just lay that out?

22 In addition to Apple, there is Sony, Sony  
23 Ericsson Mobile Communications AB and USA Inc., Nikon Corp  
24 and Inc., Pentax, which is now Hoya, H-O-Y-A,, Audiovox  
25 Communications, Olympus Corporation and Olympus America,

1 Inc.

2 At least these 11 customer defendants all have  
3 suppliers who are fully licensed.

4 The issues here are completely mooted with regard  
5 to these defendants. We raised this issue in a letter to the  
6 Court of January 24th, 2007.

7 I have a copy if your Honor would like -- would  
8 think that useful.

9 We also then followed that up with a brief  
10 addressed during a telephone conference with Magistrate Judge  
11 Thygne of January 25th, 2007 as well as February 22nd, 2007.

12 The upshot is that the customer defendants got  
13 stayed. So this issue basically got put to the side.

14 THE COURT: Does Mr. Grimm agree they are out of  
15 the case and mooted?

16 MR. GRIMM: No, your Honor. We've had no  
17 discovery to know whether or not all their suppliers --  
18 everybody is fully licensed or not, your Honor.

19 We don't know who all their suppliers are.

20 This issue was actually raised before 2007 with  
21 Judge Thygne. In light of our argument against it, she  
22 denied the request, although admittedly it was renewed in  
23 early 2007.

24 THE COURT: Honeywell says it's not that we can't  
25 agree, -- it's not that we don't agree, it's just that we

1 don't know..

2 Is that right?

3 MR. GRIMM: One of the motions pending before  
4 Judge Thygne was to get some discovery from what is referred  
5 to as customer defendants, U.S. companies that actually sell  
6 the devices.

7 THE COURT: What does that say about the  
8 discovery that you would request?

9 Does it say you would like to do depositions, 30  
10 interrogatories?

11 MR. GRIMM: I don't recall precisely.

12 I will say that we characterized it as limited  
13 discovery.

14 THE COURT: Limited discovery, one deposition, 15  
15 interrogatories.

16 You think you should be out of the case by virtue  
17 of the protection of the suppliers' license?

18 MR. HALKOWSKI: Correct, your Honor.

19 From the products that have been identified in  
20 our letter of January 24th, 2007, we went through and we laid  
21 this all out.

22 We got certain products that were identified.  
23 Judge Jordan made it very, very clear that there was to be a  
24 stopping point where, you know, the shifting of the grounds  
25 was suppose to stop and you're suppose to have a list of

1 accused products, and that was suppose to be it.

2 Based upon what has been accused, looking at the  
3 suppliers, who provide the modules that go into those  
4 products that are accused, everything is covered.

5 Again, we tried to raise this issue and just  
6 haven't gotten anywhere at this point.

7 THE COURT: Here's what we're going to do.

8 Based on what I heard and since it seems to be a  
9 big chunk of folks sitting around. I'm going to let you pick  
10 a Special Master. The two of you can do that.

11 I'm sanctioning it after you pick the Special  
12 Master. A Special Master will be authorized to work for 20  
13 hours on any disputes that arise in this limited discovery.  
14 I'm going to take that literally, very limited discovery.

15 Twenty hours means you're going to get the use of  
16 a Special Master, four days, five hours a day, who will  
17 charge you \$500 an hour. \$500 an hour times 20 hours is how  
18 much? \$10,000 split evenly. \$5000 a side. Great deal.  
19 That means where you are all going.

20 I want the suggestion of a Master by next  
21 Friday. I'm going to allow a 120 days for this to occur so  
22 you can go back and forth a little bit.

23 This is the way to do it cheaply. I won't say  
24 cheaply, but less expensive than if you just start flailing  
25 around and started filing motions with me.

1           If you pick a real good Master, this will be a  
2 homerun. You'll either know whether you're in or out.

3           I'm going to allow the Master to come up with a  
4 report and recommendation if there's any dispute.

5           MR. HALKOWSKI: Thank you, your Honor.

6           MR. GRIMM: As I understand it, this is with  
7 respect to Honeywell's request for discovery from the  
8 customer defendants?

9           THE COURT: Customer defendants who claim a  
10 suppliers' license protection.

11          MR. HALKOWSKI: Exactly.

12          The customer defendants' position is that we're  
13 done.

14          THE COURT: Right.

15          You're saying you need some information. I'm  
16 going to get you the information. I'm going to get you a  
17 dispute resolution mechanism for a peanut. \$5000 to your  
18 side. That Master will do an R&R. If there is a dispute if  
19 you don't leave them out voluntarily.

20          MR. GRIMM: That's fine, your Honor. That's a  
21 fine process.

22          I wanted to make it clear on the record that our  
23 request for limited discovery from the stayed defendants went  
24 beyond the question of whether or not their suppliers were  
25 fully licensed.



1           One of the things like establishing commercial  
2 success and other things that, as I said, I don't have fully  
3 in mind as I sit here. It was more complete.

4           To be candid with the Court and with everyone  
5 here, I wanted to be sure that was up and on the table.

6           THE COURT: For \$10,000, you're going to find who  
7 has a license and doesn't belong here.

8           MR. GRIMM: Okay.

9           THE COURT: All the rest doesn't matter if they  
10 have a license and are out. If you go back and tell your  
11 client you're going to get it done for \$5,000 dollars plus a  
12 little lawyers' fee, which won't be a little bit more than  
13 that.

14           MR. GRIMM: It does matter with respect to the  
15 non-stayed defendants.

16           THE COURT: Different story.

17           We're only operating on what has been presented.  
18 I got a suppliers' license that covers me.

19           MR. GRIMM: The issue that I want to raise, your  
20 Honor, now that they are parties in the case, it's one thing  
21 to ask for discovery from them to establish commercial  
22 success and other indicia of non-obviousness. It's another  
23 thing to have them potentially dismissed from the case and we  
24 have to have third party discovery to establish those.

25           THE COURT: You'll raise that if you are going to

1 let them out. If you don't agree on some mechanism to get  
2 that discovery post their dismissal, then you'll come to me  
3 and I will talk with them and see what we can work out.  
4 Hopefully, for very limited resources of both your clients  
5 and yourselves we're going to get it done.

6 I understand your strategy problem. I'll take  
7 that up later, either from you or from them.

8 MR. GRIMM: That's great.

9 As long as we have that on the record, your  
10 Honor.

11 THE COURT: Even if they have licenses, we may  
12 need some discovery from them. We have to discuss that.

13 They ought not to be in a lawsuit and paying  
14 money and not have the ability for anybody to make a claim  
15 against them.

16 MR. HALKOWSKI: Thank you, your Honor.

17 Just for the record, we would certainly object to  
18 being more or less kind of held hostage so they could get  
19 free access to additional discovery.

20 THE COURT: We'll talk about that later. I'll  
21 look for an order from you on that basically sums up this  
22 procedure.

23 MR. HALKOWSKI: We'll work with Honeywell and get  
24 a proposed order to your Honor.

25 THE COURT: You'll have the names of the Master

1 in there.

2 MR. HORWITZ: Now, speaking on behalf of a number  
3 of stayed customer defendants. I hope -- I wanted to make  
4 sure that other than the limited purpose of getting into this  
5 fully licensed issue, the case remains stayed as to the  
6 customer defendants?

7 THE COURT: This is only a relief valve to get  
8 you out of the case if you don't belong in.

9 MR. HORWITZ: There is a history. I remember  
10 because I argued in front of the Magistrate on the other  
11 issues that Mr. Grimm has talked about. I don't want the  
12 record to be silent.

13 We've opposed the discovery that they are seeking  
14 for various reasons. We can get into that if we ever have to  
15 get into that. Your Honor can review the transcripts of what  
16 was done before.

17 THE COURT: Fine.

18 MR. HORWITZ: Now, on behalf of Samsung as well  
19 as the other defendants, I want to make sure where we are and  
20 what your Honor wants to do and what your Honor may want to  
21 still here from us going forward.

22 We all believe as Mr. Rovner said, that we have a  
23 Markman brief due. We should have a Markman Hearing and go  
24 forward the way the case is already scheduled to go forward.

25 If your Honor is going to make any kind of a

1 major shift from that posture of the case for the  
2 manufacturers' defendants after all the time that went into  
3 it, it might be appropriate. If you're even going to  
4 consider that, to allow some of our co-counsel for both  
5 sides, frankly, to be heard.

6 If your Honor is going to go forward as it is  
7 now, that's fine.

8 THE COURT: I'm not sure what I'm going to do. I  
9 wouldn't do it without bringing in the non-Delaware counsel.

10 What I'm trying to do is to get through the  
11 immediate issues, you know, everybody gets their dates, looks  
12 at them differently and have a little bit of a different  
13 procedure.

14 I don't know enough about this case to do  
15 anything drastically different anyway at this point.

16 I'm easing into this. I will certainly give  
17 everybody an opportunity,. I'm thinking I'm going to go in a  
18 wide direction from where you've been to be heard.

19 MR. HORWITZ: Thank you, your Honor.

20 MR. MARGULES: Dispositive Motions for the  
21 Citizens' defendants?

22 My client is accused of infringing through one  
23 patent. There were a thousand cell phones that supposedly  
24 infringed that were sold into the U.S. The potential damage  
25 against my client is \$15,000.

1           The undisputed factual record as of today after  
2 all of these years of discovery is that my clients were  
3 advised by the manufacturer and by the seller of the units  
4 that they would not be sold into the U.S.

5           Their first knowledge that the 1,000 units had  
6 been sold in the U.S. came with the filing of a lawsuit.

7           My understanding is that Honeywell essentially  
8 concedes there is no infringement claim but presents an  
9 inducement claim.

10           In response to an interrogatory asking for the  
11 basis of the inducement claim, the only fact that they  
12 brought forward was the fact that a thousand units were sold  
13 in the U.S.

14           We seek immediately to move for Summary Judgement  
15 and have that briefed.

16           THE COURT: You can.

17           Deal with Mr. Grimm on a schedule. If you can't  
18 agree, submit it and I'll circle the date I like.

19           MR. MARGULES: Thank you, your Honor.

20           MR. GRIMM: Would we follow the procedure that  
21 your Honor has on your website?

22           THE COURT: Summary Judgement briefs are on the  
23 website. You have leave to file.

24           MR. MCPHAIL: We represent Innolux. Just to let  
25 you know, we had a fully briefed Motion to Dismiss for lack

1 of personal jurisdiction as of October 2006 that is still  
2 pending.

3 THE COURT: Do you have a Docket Item?

4 MR. MCPHAIL: No, I don't have a docket number.

5 THE COURT: I looked at the docket.

6 MR. MCPHAIL: The final brief, would say, was  
7 filed in October. It was filed in September. The reply  
8 brief was --

9 THE COURT: Let's see if we can get it to make  
10 sure. October 6, 2006?

11 MR. MCPHAIL: Yes, sir.

12 THE COURT: Docket Item 536. We'll take a look  
13 at that.

14 MR. MCPHAIL: Thank you very much, your Honor.

15 THE COURT: Anything else from other defendants?  
16 Here's what we're going to do.

17 As you know, the Markman briefing is proceeding  
18 and it should continue to proceed. Other than leave granted  
19 for the Summary Judgement application today, Summary  
20 Judgement should be -- any efforts there should be  
21 discontinued until there is a claim construction order and  
22 the opportunity for expert reports with the experts having  
23 the claim construction order in hand. At that point, we'll  
24 be able to talk about the expert reports if there is going to  
25 be Summary Judgement.

1           As far as you need a date, it sounds like for a  
2 claim construction hearing -- do you have a timeframe, a  
3 month that you were thinking about?

4           MR. ROVNER: Your Honor, with briefing due at the  
5 end of May, any time that is convenient for your Honor after  
6 that.

7           THE COURT: Do you agree?

8           MR. GRIMM: Yes, your Honor.

9           THE COURT: Okay.

10          Well, you can get up with your non-Delaware  
11 counsel and they can pick any day of the week of July the 7th  
12 except that I have another matter scheduled -- except Monday  
13 July 7th. The 8th, 9th, 10th or 11th.

14          MR. ROVNER: That's fine, your Honor.

15          We'll get back to you within a week.

16          THE COURT: A couple of weeks.

17          MR. ROVNER: Do you know how much time during  
18 that day you'll have?

19          THE COURT: I won't know until I read the  
20 papers.

21          I try to gauge it by what the papers say. It's  
22 hard in a vacuum to set times on Markman hearings until you  
23 know what the issues are and how much you can tolerate.

24          MR. ROVNER: Thank you.

25          THE COURT: That will be the week.

1                   Lastly, to take up Mr. Grimm's point.

2                   You can consult with your non-Delaware counsel.  
3                   I'm going to give you a lot of time. By May 16th it will be  
4                   helpful to the defendants a letter -- a joint letter with any  
5                   with any specialized exception taken in a footnote, if you  
6                   could -- the defendant's could open up with a position paper  
7                   on Mr. Grimm's suggestion to -- I'm using reorganized.

8                   MR. GRIMM: Reconfigure?

9                   THE COURT: Reconfigure.

10                  I like it. To reconfigure the procedures of this  
11                  case. So, you will get that letter in.

12                  Mr. Grimm, you'll have two weeks after that to  
13                  get a response and Mr. Rovner and Mr. Horwitz by May 26th.

14                  Nobody will have to show for Memorial Day.

15                  This is on reconfiguring the trial.

16                  MR. ROVNER: Mr. Horwitz and I were just  
17                  discussing. This is really the first time that Honeywell  
18                  articulated they want to reconfigure. They made noise  
19                  before.

20                  Our proposal to reconfigure is that they should  
21                  go first and we should hear what they have to say and we  
22                  should be able to respond.

23                  We're not quite sure other than what Mr. Grimm  
24                  has said today really what their basis is.

25                  THE COURT: All right.



1 I didn't think it was that complicated.

2 MR. ROVNER: There is a four year history of this  
3 case.

4 THE COURT: Here's the bottom line. He wants to  
5 throw in infringement with your invalidity and  
6 unenforceability case and then he might have a lot of  
7 reasons.

8 MR. GRIMM: We're happy to go first. I have no  
9 problem with that.

10 The four year history. The point of the four  
11 year history is that we've been proceeding along with one  
12 trial configuration for four years. The parties have  
13 discovered everybody. We have four defendants now.

14 THE COURT: Maybe they think you have more that  
15 they want to hear. I'll give you a chance to put it out  
16 there first.

17 What did you say?

18 MR. GRIMM: I have no doubt that my co-counsel  
19 may have other, even better reasons.

20 THE COURT: You can respond in two weeks.

21 MR. ROVNER: Thank you, your Honor.

22 MR. HORWITZ: That will be the last word, our  
23 response?

24 We should get the last word since we're  
25 representing the status quo position.

1 THE COURT: That decision may call for a quarter  
2 to be flipped. I only have three good decisions a day in  
3 me. I usually use two at home before I get here. You're not  
4 going to get a chance to say anything else, Mr. Grimm.

5 Put the it all in the first letter.

6 MR. GRIMM: That's fine, your Honor.

7 THE COURT: I feel badly for the people coming  
8 back.

9 On a serious note, I hope we can get this thing  
10 going for you. We made some headway today. I appreciate  
11 your willingness and ability to be here on short notice.

12 I'm going to ask that you agree on an order that  
13 goes in place calling it a status conference.

14 There's a transcript for all your non-Delaware  
15 counsel. That way we'll have a starting point for what we're  
16 going to be doing.

17 It's going to be a little bit of a piecemeal  
18 effort going forward to try to get this case on track.

19 Okay.

20 MR. GRIMM: One last request?

21 Would it make sense to set a date for a status  
22 conference, if not, immediately following the submission of  
23 these two letter briefs following the Markman Hearing to  
24 determine where we are, maybe set a trial date at that time?

25 THE COURT: I think it makes sense for me to have

1 a status conference.

2 This calendar is such an moving target. I don't  
3 like to use up time unless I read a paper or something so I  
4 have some idea of what I'm going to be talking about, then I  
5 might schedule a half hour as opposed to an hour and a half  
6 or something.

7 I agree with you, we ought to have a status  
8 conference after I have these papers.

9 One procedure is to e-mail and ask for a time.  
10 I'll get you on.

11 It's easier to get it on when I'm ready to have  
12 you in rather than doing something now for the schedule  
13 ahead.

14 The calendar is getting a little reconfigured.  
15 I'm going to be using that word a lot, Mr. Grimm. I like  
16 that.

17 Anything else?

18 (No response).

19 THE COURT: Thank you very much.

20 (Court proceedings concluded at 1:24 o'clock p.m.)

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